

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jean Paul Lozada	Team: Squad #3	CCRB Case #: 201502715	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 04/08/2015 6:30 AM	Location of Incident: § 87(2)(b)	Precinct: 25	18 Mo. SOL 10/8/2016	EO SOL 10/8/2016	
Date/Time CV Reported Fri, 04/10/2015 12:47 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 04/10/2015 12:47 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Ernesto Crisostomo	28489	953790	PSA 5

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Jessica Velez	09583	954399	PSA 5

Officer(s)	Allegation	Investigator Recommendation
A.POM Ernesto Crisostomo	Abuse: PO Ernesto Crisostomo stopped § 87(2)(b)	§ 87(2)(b)
B.POM Ernesto Crisostomo	Discourtesy: PO Ernesto Crisostomo spoke rudely to § 87(2)(b)	§ 87(2)(b)
C.POM Ernesto Crisostomo	Abuse: PO Ernesto Crisostomo issued a summons to § 87(2)(b)	§ 87(2)(b)

### Case Summary

On April 10, 2015, § 87(2)(b) filed this complaint with the CCRB via telephone.

On April 8, 2015, at approximately 6:30 a.m., § 87(2)(b) was attempting to pull out of his parking space in the parking lot in the rear of § 87(2)(b), but he was blocked in by an RMP. As PO Ernesto Crisostomo and PO Jessica Velez were reversing their RMP out of the lot, PO Crisostomo shined a flashlight in § 87(2)(b)'s face and § 87(2)(b) asked him if he thought it was right for him to be doing so. PO Crisostomo and PO Velez exited the RMP and approached § 87(2)(b)'s vehicle. PO Crisostomo asked § 87(2)(b) what his problem was PO Velez said he had to wait to leave the parking lot. § 87(2)(b) said he was waiting already and asked PO Crisostomo why he was screaming. PO Crisostomo then requested § 87(2)(b)'s identification (**Allegation A**) and § 87(2)(b) complied. While standing by § 87(2)(b)'s window, PO Crisostomo said to PO Velez, "Who the fuck does this guy think he is?" (**Allegation B**) referring to § 87(2)(b). PO Crisostomo issued § 87(2)(b) a disorderly conduct summons for excessive noise (**Allegation C**).

### Mediation, Civil, and Criminal Histories

- Mediation was offered to § 87(2)(b) during a telephone statement on April 10, 2015 and during his CCRB interview on April 14, 2015. § 87(2)(b) rejected mediation § 87(2)(b)
- On May 6, 2015, a Freedom of Information Law request for any notice of claim filed by § 87(2)(b) in respect to this incident was sent to the NYC Comptroller's office. Any responsive notice of claim will be added to the case file upon receipt (see Board Review 01).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) (see Board Review 03).
- PO Crisostomo has been a member of the NYPD for two years and has two previous CCRB allegations involving one case with no substantiated allegations. § 87(2)(g)

### Findings and Recommendations

**Allegation A: PO Ernesto Crisostomo stopped** § 87(2)(b)

**Allegation C: PO Ernesto Crisostomo issued a summons to** § 87(2)(b)

§ 87(2)(b) stated that as he was pulling out of his parking space, PO Crisostomo shined a flashlight in his face and he asked PO Crisostomo if it was appropriate for him to do so. PO Crisostomo and PO Velez approached his vehicle and PO Crisostomo told him that he had to wait to leave the parking lot. § 87(2)(b) said he had been waiting and asked PO Crisostomo why he was yelling. PO Crisostomo then asked § 87(2)(b) for his license and registration. § 87(2)(b) stated that he remained calm during this encounter and did not raise his voice and that no crowd formed at the scene

PO Crisostomo stated that § 87(2)(b) honked his horn for five or six seconds before he entered the RMP. As the officers were reversing the RMP out of the lot, § 87(2)(b) allegedly honked his horn again. PO Crisostomo instructed § 87(2)(b) to wait for them to leave but § 87(2)(b) did not follow his instructions. PO Crisostomo acknowledged shining his flashlight at § 87(2)(b) and alleged that § 87(2)(b) rolled down his window and yelled profane statements towards the

officers, such as, “Who the fuck do you think you are?” “You’re fucking blocking my vehicle,” and, “You fucking cops do whatever you want.” PO Crisostomo stated that he then exited the RMP, approached § 87(2)(b) s vehicle, and requested his license and registration. PO Crisostomo issued § 87(2)(b) a disorderly conduct summons for excessive noise (see Board Review 04). He acknowledged that it was his decision to summons § 87(2)(b) and that he did so because § 87(2)(b) was being “loud and belligerent” early in the morning. He did not observe § 87(2)(b) commit any VTL infractions. PO Crisostomo stated that no crowd gathered at the scene during this incident. PO Crisostomo stated that he did not note any of § 87(2)(b) s profane statements on the summons and that he instead stated that he noted them on a sticky note that he kept for his own records. PO Crisostomo did not have this sticky note with him during this interview,

A video of the incident provided by § 87(2)(b) (see Board Review 05 and Board Review 06), which begins as PO Crisostomo approaches his vehicle, generally corroborates § 87(2)(b) s account of the incident. In the video, PO Crisostomo asked § 87(2)(b) what the problem was and § 87(2)(b) said he had been waiting. PO Crisostomo told him that he and PO Velez were on a job and PO Velez told him that he had to wait. § 87(2)(b) asked the officers why they were screaming and PO Crisostomo said § 87(2)(b) was screaming. § 87(2)(b) insisted that the officers were the ones that were screaming and then PO Crisostomo requested his identification. PO Crisostomo then turned to PO Velez and said, “Who the fuck does this guy think he is?” During this conversation, § 87(2)(b) spoke with a somewhat raised voice, but less so than PO Crisostomo. § 87(2)(b) did not use any profanities during his interaction with the officers.

Under the disorderly conduct subsection indicated on a copy of the summons provided by § 87(2)(b) a person would be guilty if, “with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof... he makes unreasonable noise.” NYS Penal Law, Section 240.20. According to People v. Square, “The mere expression that one feels aggrieved by the police -- even when uttered in a loud voice -- cannot constitute an offense.” People v. Square, 872 N.Y.S.2d 693 (2008). See Board Review 07.

§ 87(2)(g)

[REDACTED]

**Allegation B: PO Ernesto Crisostomo spoke rudely to § 87(2)(b)**

§ 87(2)(b) alleged that while PO Crisostomo and PO Velez stood at his window, PO Crisostomo said, “Who the fuck does this guy think he is?,” to PO Velez in reference to § 87(2)(b). A video of the incident provided by § 87(2)(b) (see Board Review 05 and Board Review 06) shows PO Crisostomo standing right by his window and making this exact statement to PO Velez. PO Crisostomo initially denied making saying “Who the fuck do you think you are?” or using any profanities. However, when shown the video shot by § 87(2)(b) PO Crisostomo acknowledged saying “Who the fuck does this guy think he is?” to PO Velez.

Patrol Guide Procedure 203-09 states that officers must be courteous and respectful while on duty (see Board Review 07).

§ 87(2)(g)  
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Pod: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date